

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

8 \* \* \*

9 CURTIS RAYMOND WILSON II,

Case No. 3:14-cv-00166-MMD-WGC

10 Plaintiff,

ORDER

11 v.

12 RENO POLICE DEPT, et al.,

13 Defendants.

14 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by  
15 a former state prisoner. On April 23, 2014, this Court issued an order denying the  
16 application to proceed *in forma pauperis*, without prejudice, because the application was  
17 incomplete. (Dkt. no. 5 at 1-2.) The Court ordered Plaintiff to file a fully complete  
18 application to proceed *in forma pauperis* for non-prisoners or pay the full filing fee of  
19 \$400.00 within thirty (30) days from the date of that order. (*Id.* at 2.) On April 30, 2014,  
20 Plaintiff filed an incomplete application to proceed *in forma pauperis* for prisoners. (Dkt.  
21 no. 6.) On May 1, 2014, this Court denied the application to proceed *in forma pauperis*  
22 as incomplete and ordered Plaintiff to file a fully complete application to proceed *in*  
23 *forma pauperis* for non-prisoners on the correct form in compliance with 28 U.S.C. §  
24 1915(a), or pay the full filing fee of \$400. (Dkt. no. 7 at 2.) The thirty-day period has now  
25 expired, and Plaintiff has not filed another application to proceed *in forma pauperis*, paid  
26 the full filing fee, or otherwise responded to the Court's order.

27 District courts have the inherent power to control their dockets and "[i]n the  
28 exercise of that power, they may impose sanctions including, where appropriate . . .

1 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829,  
2 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s  
3 failure to prosecute an action, failure to obey a court order, or failure to comply with  
4 local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for  
5 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.  
6 1992) (dismissal for failure to comply with an order requiring amendment of complaint);  
7 *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply  
8 with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v.*  
9 *U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply  
10 with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal  
11 for lack of prosecution and failure to comply with local rules).

12 In determining whether to dismiss an action for lack of prosecution, failure to  
13 obey a court order, or failure to comply with local rules, the court must consider several  
14 factors: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need  
15 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
16 favoring disposition of cases on their merits; and (5) the availability of less drastic  
17 alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*,  
18 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.


19 In the instant case, the Court finds that the first two factors, the public’s interest in  
20 expeditiously resolving this litigation and the Court’s interest in managing the docket,  
21 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs  
22 in favor of dismissal, since a presumption of injury arises from the occurrence of  
23 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.  
24 See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor — public  
25 policy favoring disposition of cases on their merits — is greatly outweighed by the factors  
26 in favor of dismissal discussed herein. Finally, a court’s warning to a party that his  
27 failure to obey the court’s order will result in dismissal satisfies the “consideration of  
28 alternatives” requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;

1 *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file another  
2 application to proceed *in forma pauperis* or pay the full filing fee within thirty days  
3 expressly stated: "IT IS FURTHER ORDERED that if Plaintiff does not timely comply  
4 with this order, dismissal of this action may result." (Dkt. no. 7 at 2.) Thus, Plaintiff had  
5 adequate warning that dismissal would result from his noncompliance with the Court's  
6 order to file another application to proceed *in forma pauperis* or pay the full filing fee  
7 within thirty (30) days.

8 It is therefore ordered that this action is dismissed without prejudice based on  
9 Plaintiff's failure to file another application to proceed *in forma pauperis* or pay the full  
10 filing fee in compliance with this Court's May 1, 2014, order.

11 It is further ordered that the Clerk of Court shall enter judgment accordingly.

12 DATED THIS 5<sup>th</sup> day of June 2014.

13   
14 \_\_\_\_\_  
15 MIRANDA M. DU  
16 UNITED STATES DISTRICT JUDGE  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28